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Filed:	July 4, 2004	)	
		)	This Pre-Appeal Brief was
Applicant:	Eric Schneider	)	electronically filed on
		)	December 10, 2010 using EFS-Web.
Title:	Method, Product, and Apparatus for	)	
	Processing a Data Request	)	
		)	
Art Unit:	2453	)	
		)	
Examiner:	Ondrej C. Vostal	)	
		)	
Attorney Docket:	93767	)	
		)	
Customer No.:	22242	)	

Commissioner for Patents
P. O. Box 1450
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BRIEF IN SUPPORT OF PRE-APPEAL REQUEST FOR REVIEW

Sir:

In response to the Office Action mailed October 13, 2010, please enter the following brief in support of the co-filed Pre-Appeal Request for Review. A Notice of Appeal is submitted herewith.

Claims 1-23 are pending in the above identified application. The Examiner rejected claims 1-3, 7-9, 13, 14, 20, 21, and 23 as allegedly unpatentable over Broadhurst (U.S. Patent No. 6,560,634 B1) in view of Hatakeyama et al. (U.S. Patent No. 5,454,105 A). We hereby respectfully observe that at least some of these rejections are based upon clear error.

I.   Clear Error: Broadhurst in view of Mann fails to disclose each and every element of the pending claims.

The Broadhurst Reference

Broadhurst describes a "query server that overcomes the shortcomings of existing domain name searching techniques by performing a multitude of searches simultaneously, transparent to the user." (Broadhurst, Abstract) "[T]he improved query server searches for existing domain

name records in various domains and then displays the results in a formatted manner, thus eliminating the need for a user to perform individual searches." (Id.) "In response to the search request, the DNS server 108 searches its domain-name database for a DNS record associated with the specific domain name (step 148). The DNS server 108 generates a response that indicates whether a DNS record was found for that domain name." (Id. at Col. 6, Lines 10-14).

The Hatakeyama Reference

Hatakeyama is directed to a "document search method and system for searching and retrieving a document containing a specific character string in response to search requests issued by a plurality of search request sources." (Hatakeyama, Abstract). As the plurality of search requests are received, they are "stored in a queue buffer." (Id.) "When a plurality of search requests have been stored in [the] queue buffer ..., a search processing is performed for the plurality of search requests simultaneously as stored." (Id.) The results of the plurality of search requests are "then distributively outputted to the relevant search request sources, respectively." (Id.) An illustration of the system is shown in Fig. 2 of Hatakeyama.

The Examiner Interprets "Identifier" and "Data Request Type" Inconsistently from the Specification

The Examiner set forth an Official Notice on page 5 of the Office Action, which we interpret as the Examiner stating that it would have been obvious to recognize that Broadhurst's "registered" and receiving an "identifier" is referred to in Hatakeyama as "identifiers of the terminals." However, the Examiner misinterprets the meaning of "identifier" and "request type." As set forth in MPEP 2111, "claims must be given their 'broadest reasonable interpretation consistent with the specification.'" The interpretation of these terms by the Examiner is not consistent with the use of the terms in the specification and is thus improper.

Furthermore, as set forth in MPEP 2141.02, "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." (emphasis in original). The Examiner is too broadly interpreting elements of the prior art to read on the claims by not considering the whole of the references.

Paragraph [0129] of the published application discloses that a "data request may include at least one identifier and at least one request type (e.g., identifier is a URI and request type is a

resolution request, identifier is a keyword and request type is a search request, ... etc.)." A person having ordinary skill in the art would interpret an identifier in view of these teachings as the subject matter of the request or query, and the request type as the type of request or query. In fact, Broadhurst discloses that "a domain name is the identifier by which an individual, a company,... etc. ... can be found on the internet." (Broadhurst, Col. 1, Lines 38-41).

Hatakeyama, however, uses the term "identifier" in a different and unrelated manner. "The queue buffer which is in charge of managing the search requests is designed for registering therein the query statements of the search requests together with the identifiers of the terminals issued [sic] these requests, respectively." (Hatakeyama, Col. 3, Lines 29-32). The "identifier" of Hatakeyama is a placeholder reference to the terminal that made the search request.

The Official Notice also states that Broadhurst's "'apple', and a type" and "apple.co.uk" data request types are different data request types than "computer," and "bio-technology;" and "processing is performed in accordance with the type of the query statement." However, the phrase, "type of the query statement," (Hatakeyama, Col. 14, Lines 23-24) is a reference to the logical condition connecting the search terms of the Hatakeyama query (such as an AND or an OR query). The Examiner then continues by stating that "computer" and "bio-technology" are different data request types as explained by Hatakeyama. As mentioned above, when reading claim 1 in light of the specification, a person having ordinary skill in the art would interpret "identifier" and "data request type" to be the subject matter of the request and the type of the request, respectively. The Examiner appears to be interpreting search terms such as "computer" and "bio-technology" as request types, but Hatakeyema clearly uses these as the search terms. Hatakeyema discloses only one type of data request: a search request.

The Examiner sets forth an additional Official Notice on page 6 of the Office Action. The statements above regarding the interpretation of "identifier" in light of the specification and the references as a whole apply fully.

With reference to our response to the Examiner's Official Notices on pages 5 and 6, it is clear that the Broadhurst and Hatakeyama references, when combined, fail to disclose each and every element of claim 1. Specifically, neither reference discloses "generating and performing a second data query derived from said one or more identifiers and from a second data request type

of said one or more data request types, wherein said second data request type is of a type different from said first data request type; and, retrieving at least one second result from the at least one source in response to said second data query…."

The Examiner relies on Hatakeyema to disclose these elements; however, Hatakeyema does not disclose "generating and performing a second data query" and does not disclose "retrieving a second result." The Examiner considers the "new query" of Hatakeyama to be a second data query. However, the "new query" of Hatakeyama is a "new query consolidating the search requests." Hatakeyema consolidates multiple distinct first queries from multiple terminals and processes them simultaneously, returning the single results of each single query to the specific terminal making the request. This "new" query is not a "second query." It is a grouping of multiple first queries that occurs prior to any initial search. Furthermore, claim 1 recites that the "second data query" is "derived from … a second data request type." Hatakeyama discloses only one data request type: a search.

Accordingly, Hatakeyama also fails to disclose retrieving a second result in response to the second data query. The Examiner considers the "allotment of results" in Fig. 2 as similar to retrieving a second result. As previously stated and clearly illustrated in Fig. 2, the allotment of results are multiple first results for delivery to the multiple terminals that made the single first request. While Hatakeyama processes multiple queries and retrieves multiple results, none of the results are in response to second data queries that are derived from first data queries.

The Examiner, in paragraphs 38-39, refers to the "but not identified by" language of claim 1 as referring to and supporting the "one or more identifiers" language. We disagree. The "identifier" of claim 1 is a noun and "identified" is a verb. "Identifier" is clearly defined in the specification. The "identified" language is unrelated to the definition of "identifier" and thus the claim needs no clarification. The use of the common verb "identified" in one passage of the specification does not alter how the noun "identifier" is used in other parts of the specification. The Examiner states that he cannot import material from the specification to interpret the claims, yet he refers to an out of context passage to attempt to broaden or confuse the definition of a well known term of art that is clearly defined. The Examiner cannot ignore the plain meaning of "identifier" as used in the specification and in the art.

The Examiner relies on the misinterpretation of "identifier" and also "registering" as reasons to combine the references. Broadhurst refers to registration of identifiers, and Broahurst's use is consistent with the use of those terms in the art. Hatakeyama, however, uses these terms in a completely different way. Hatakeyama registers the identifiers of the terminals that created the query. This is a method of tracking the source of the query so the system can return the result to the proper terminal. This is completely different than identifier registration as used in Broadhurst. Broadhurst deals with domain name registration. Hatakeyama deals with database text searching, and is completely unrelated to domain names. The Examiner relies on a few commonly used terms that are used in each reference to connect the two, but when reading the references as a whole, it is clear the terms are used in different ways in the unrelated applications.

The Examiner states in paragraph 40 of the Office Action that Broadhurst and Hatakeyama do not need to disclose both first and second data request types if they disclose the equivalent scope or examples. However, neither reference discloses any equivalent scope. Upon a full reading of each reference, they both disclose only one data request type. Accordingly, neither reference generates a second data query derived from a second data request type.

The Examiner admits, in paragraph 42 on page 36 of the Office Action, that when considering details from the specification there are differences between claim 1 and the cited references. We agree. However, the Examiner cannot ignore the details of the specification; the Examiner must interpret the claims consistently with the specification. Interpreting the terms inconsistently from the specification is clear error.

For at least the above reasons, the rejections of claims 1-23 should be withdrawn.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

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